

Application No. 10/080,065
Amendment dated June 9, 2004
Reply to Office Action of March 9, 2004

REMARKS

Claims 1-10 were originally presented in the above-captioned patent application. In response to the Examiner's office action, Claims 8-10 have been cancelled. Claims 11-13 have been added. Claim 1 is amended. Accordingly Claims 1-7 and 11-13 are pending in this application.

The Examiner objects to the drawings. In response to this rejection, new drawing Fig. 3 is presented herewith. Support for this added drawing is found in the claims as originally filed and in the specification including paragraphs [0018], [0019] and [0020].

The Examiner rejects claims 1-10 under 35 USC § 112, first paragraph and second paragraph as being indefinite and failing to enable one skilled in the art to make the invention. The Examiner further rejects claims 1-10 under 35 U.S.C. 101 as being directed to non-statutory subject matter.

The Examiner rejects Claims 1-10 under 35 USC § 102(b) as being anticipated by Rossides (US 5,359,508) and also rejects these claims under 35 USC § 102(e) as being anticipated by Kaplin (US2002/0076674). Claim 1 is now amended to overcome the 101, 112 and 102 rejections and Claims 8-10 are canceled to render these rejections moot.

102 (e) Rejection

In order for a reference to anticipate an invention, each and every element of the claimed invention must be found in a single reference. "Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy, 17 USPQ2d 1461, 1462 (Bd Pat App & Inter 1990).

Applicant's independent claim 1 is amended to include the following limitation:

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"...granting the user a degree of exclusivity over the use of the innovative aspect within the virtual environment"

Applicant's independent claims 11 and 12 include additional limitations including restricting the claim to apply to a "labyrinth inhabited by unfriendly creatures"

Rossides (US 5,359,508) pertains to registering charges and royalties. Kaplin (US2002/0076674) pertains to distributed computing and problem solving. Nothing found in either reference teaches the claimed aspects of the present invention, which is directed at video gaming and which uses a reward system for users that come up with novel strategies by providing some degree of exclusivity to use the novel strategies as a reward. Therefore, Applicant respectfully submits that the claim amendment and new claims are not anticipated by the cited references.

112 Rejections

The Examiner states that it is not clear what is meant by innovative aspect and enabling. Enabling means writing the code and/or hardware to perform the claimed sub-steps. Innovative aspect is more clearly defined by amendment to Claim 1 and thus "innovative aspect" must include a character attribute. Gamers would agree that a character may have attributes including speed, strength, durability, agility special powers, vision, etc. Applicant submits that the specification supports this conclusion.

101 Rejection

The Examiner recognizes the value of 35 USC 101. However in view of the claim amendments and claim cancellations, the ground for rejection is rendered moot.

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Furthermore, there is multi-billion dollar gaming industry with a bright future. Enhancing the playability of video games is quite important to this industry.

In light of the discussion above, Applicant believes that all claims currently remaining in the application are allowable over the prior art and respectfully requests the allowance of such claims.

Respectfully submitted,

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